

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Re: ET Docket No. 97-206

In the Matter of Technical requirements to Enable Blocking of Video
Programming Based on Program Ratings. Implementation of
Sections 551 of the Telecommunications Act of 1996.

To: The Commission

**Reply Comments of
John B. Livingstone, M.D. at Harvard Medical School**

December 18, 1997

As a longstanding consultant to various segments of the television industry and a child and adolescent psychiatrist, I am familiar with the process of designing TV rating systems which serve parental empowerment, keep health risks to children low, and respect creative freedom in television production.

I have filed Comments on this docket with the Commission on November 18, 1997 and in them emphasized that there is a strong child harm protection goal embedded in Sec 551. I pointed out, 1) that parents are very different in how they trust and use information, 2) that there are significant functional differences between rating systems with regard to child protection, and 3) that the TV industry made a choice that their ratings would not be strong in the child protection department. I concluded that parents will need access to choices of rating systems for Sec. 551 to be satisfactorily implemented.

After reviewing joint comments of the NAB, NCTA, and MPAA (*Joint Comments*), CEMA, Phillips, OKTV, APA-AACAP, CME et al., and Tim Collings, I wish to submit the following brief Reply Comments.

1. Joint Commenters, CEMA and others over-emphasize ease-of-use from having one monopoly rating service at the expense of the need for meaningful and reliable rating information. Parental empowerment is both technological and informational. Informational empowerment for parents is having equal and timely access to different sources of rating information so they can be the ones who determine what is reliable, trustworthy, and relevant to their own priorities.

User-friendliness needs to be integrated with informational meaningfulness for parental empowerment to be realized under Sec. 551. A rating system unused because of unfriendly technology has no impact no matter how credible the information. A rating system with unreliable information regarding child protection may be utilized through excellent technology but has no impact except to lull parents into false security. Public health experience world wide shows that parents are confused and discouraged primarily by vagueness and by lack. The choice by parents to operate in one particular rating system rather than another can be made by selection of a few numbers on their remote. This extra step hardly overrides benefits for parents which flow from their experience of using a system which for them is clear. I encourage the Commission to emphasise that the necessary and sufficient conditions for parental empowerment in concert with Sec 551 require all three of the following: Reliable Information from multiple sources which can be used flexibly and is relevant to harm prevention for all the nation's children and teenagers, Easy and Timely Access To That Information, and Blocking Technology Which Utilizes Common Rating Information, is user-friendly and affordable. I believe that these three criteria are not mutually exclusive. I respectfully suggest that The Commission assess how well the Revised TV Parental Guidelines, the MPAA ratings, and their proposed system of ratings determination and distribution have fulfilled all three of these criteria. Even if the industry rating system were vastly superior on all levels than it now is, parents inherently still need truly different choices for their empowerment (Livingstone Comments ET Docket No. 97-206, #1).

2. The Revised Industry Rating System has systemic deficits which impair ease-of-use and promote confusion for parents and TV producers. The deficits are not cured by technology, exclusivity, a monitoring board function, or by giving local distributors the right to alter. They include:

- Vaguely defined terminology regarding content and undue complexity (Comments re Docket No. 97-55, Professor J. Cantor)(*The Caucus Quarterly* Spring 1997, Pub. The Caucus for Producers, Writers & Directors, J. Livingstone, M.D. pages 18-21)
- Absent or unpublished explicit criteria for applying their rating symbols. (Joint Comments re CS Docket 97-55 from APA and American Academy of Child and Adolescent Psychiatry) (Comments re ET Docket No. 97-206 from The AMA and from J. Livingstone, M.D.)
- Inconsistent application of the rating symbols across the networks, with some networks not participating.
- Poor disclosure of content to parents perpetuated by the design of the TV Parental Guidelines which permit an industry rater to manipulate the symbols in order to conceal the presence of violent content in a program. (Comments re CS Docket No. 97-55 Professor J. Cantor, paragraph 2)
- The industry proposal to allow local distributors to change assigned program ratings runs the risk of delivering ratings to homes which are even more inconsistent and unreliable because the industry has continued not to develop universal explicit criteria to guide all their raters. This proposal reflects misunderstanding by some people in the TV industry of how parents evaluate and use what they believe to be child health-related information.

Not only are the above systemic deficits not cured by technology or exclusivity, they also are not likely to be cured by the plan to add to the industry Monitoring Board "five non-industry members drawn from the advocacy community", a provision in the July 10th Agreement on Modifications. The reason is that even if several of the Monitoring Board members were to be child health specialists, they would have little power to effect change in a system with its core design already set and being operated by TV network raters at geographical distance and with whom they have no working relationship. Since the basic pathway of the TV Ratings Implementation Group was not influenced by sophisticated scientific pressure during most of 1996-97, it is unlikely

that in-put at a Monitoring Board would be more than tokenism.

3. The *Joint Commenters* misrepresent childrens' advocacy groups and misconstrue the Agreement on Modifications to the TV Parental Guidelines which did not agree to give the two industry ratings a technological exclusive or to close off the possible broadcast of ratings emanating from a different source.

The organizations in the AMA-led coalition of February 1997 and in the Childrens' Advocacy Groups of July 1997 have consistently pressed for technology which accommodates additional rating systems since there is continuing doubt about the value of the industry system for preventing harm to children. This includes the AMA, AAP, APA and CME whose official positions I do not believe have changed. Also, Congressman Ed Markey went on record as supporting "open technological architecture whatever the TV Industry develops" (November 21, 1996, Press Conference, NPTA Parent Survey Results, Rayburn Room 2218). The statement made by *Joint Commenters*, namely, "The July 10, 1997 agreement---specifically provides that no other television rating system will be mandated for inclusion in the V-chip" (page 8, paragraph 1, line 2) is a manipulation of both item 4 and attachment 2 paragraph 1 of the Agreement. First, I was unaware that the FCC would "mandate" any particular rating system. Secondly, the agreement, as I undertood it, was that in exchange for the industry making certain modifications, the childrens' advocacy groups agreed to encourage a finding by the FCC that the TV Parental Guidelines are an "acceptable" rating code. The latter would obviate the need for the FCC to establish an Advisory Committee to design one. Also, the industry argument omits that this very point was openly clarified during the discussions and that the organizations who signed the settlement did so with the expressed understanding that the phraseology "only systems mandated" was about relief from Congressional pressure and was not about exclusivity on the "V-chip" for their two systems, the MPAA ratings and TV Parental Guidelines. There is a big difference between mandating something and closing off technological opportunity for others and for future improvements.

4. The Commission should not allow the two industry codes, MPAA and TV Parental Guidelines, nor any other system to have technological exclusivity on line 21 or within the "V-chip" for two reasons. Parents inherently need choices for their empowerment. According to some Commenters, the current status of the industry system is questionably "acceptable" on both conceptual and technical grounds

Because of the systemic deficits already mentioned above (#2), the child health imperatives in Sec. 551, and the current inconsistent usage of the Revised TV Parental Guidelines by the networks, the industry system could be found "acceptable" only if parents have equal access to additional, voluntary, non-governmental rating systems. As the Commission has already acknowledged in ET Docket No.97-206, an additional TV rating system already is in development among organizations in the AMA-led coalition. Comments of many of these organizations regarding both CS and ET dockets have been filed with the Commission (OKTV Foundation, National Institute for Media and the Family, AMA, American Psychiatric Association, American Acad. of Child & Adoles. Psychiatry, American Acad. of Pediatrics, American Psychological Association).

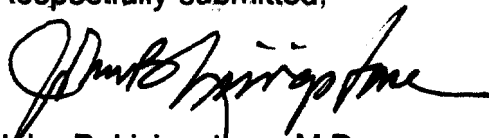
OKTV and collaborative partners in child health science and creative TV production are well along in the design of a totally integrated health-based ratings system. As one of their medical advisors, I am familiar with their professional credibility. Their system as described in their Comments on CS No. 97-55 and ET No. 97-206 appears to have a strong potential to empower parents both by deriving reliable rating information useful for child harm protection and by disseminating that information through a user-friendly technological framework which fits industry standards. It is of compelling importance to parents to have the opportunity to field test electronic blocking which uses ratings from the child health community similar to that of OKTV in addition to those from the TV business community. The chance of this happening is nil unless the Commission stands by its proposed open approach to the development of industry regulations that accommodate multiple rating systems.

Concluding remarks:

I urge the Commission to hold fast to providing a technical framework that will accommodate the possible development of and access by parents to multiple rating systems and to ensure that rating information determined by an identified credible source will not be altered or deleted by TV distributors or others.

The above policy would provide children and parents with the highest potential benefit from the implementation of Sec 551 and makes the best use of all of our country's child health science and technological expertise.

Respectfully submitted,



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